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No. 96-64

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1995

Peter J. Di Lauro et al.

Petitioner(s)

V.

Helen B. Ver Strate Esq. et als.

Respondents

On Petition For Writ Of Certiorari

To the United States Court of Appeals

For the Third Circuit

PETITIONER'S ~~REPLY~~ Supplemental BRIEF

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- Racketeering
- Conspiracy
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- Fraud

OPENING STATEMENT

The lower court's decisions, in denying the plaintiffs the relief they sought, has so far departed from the accepted and usual course of judicial proceedings that it amounts to nothing less than judicial tyranny. The issues before the court are of such great public importance that it demands this courts review.

When those entrusted to preserve justice and protect the individuals inalienable rights the U.S. Constitution speaks of, ignores the Constitution, Statutes, Rules of the Court and their own internal procedures that fails to prosecute colleagues and police itself is nothing less than an abuse of authority that violates a public trust that thwarts public policy.

A system that tolerates misbehavior and the arrogance of knowing that they belong to a good old boys network that revels in a vicious circle of immunity from prosecution by their peers.

HISTORY OF EVENTS

In the plaintiffs circumstances, the attorney handling the purchase of a business and real estate was found by a State Supreme Court Judge to have bungled the deal leaving plaintiffs exposed to litigation that cost in excess of $20,000 to defend.

The attorney, who admitted numerous times to misappropriating funds (funds plaintiffs have still not recovered), was also found guilty of wrongdoing, by causing plaintiffs to operate, maintain and be responsible for a business and real estate they didn't own for over a year and a half. Plaintiffs were told they had to sue the attorney for any damages they incurred.

Plaintiffs sued, and found out first hand how far the legal profession will go to assure that their peers will not be prosecuted. The attorney representing us in that matter failed to file a complaint with the ethics committee as required by law.

Deals were made, evidence suppressed, numerous laws and codes of conduct violated by colleague lawyers and judge, who all belong to the same New Jersey Bar and who each played their role to assure the attorney's acquittal.

Plaintiffs case was compromised and plaintiffs sacrificed for referral business, judicial favor in order to keep down legal malpractice insurance for all those in the legal profession.

Plaintiffs encountered the same resistance by the defendants colleagues in the lower courts. A judiciary that refuses to police itself because it will ultimately influence their own practice in the future.

ARGUMENT

When Non-lawyer pro se litigants filed a complaint alleging racketeering, conspiracy, misconduct and fraud against a New Jersey Superior Court Judge and several New Jersey attorneys in the District court, they witnessed first hand, that the very system people seek justice in, is riddled with incompetence, corruption, misconduct and abuse.

The fact that Constitutional rights to due process, equal protection of the law and right to privacy (to name a few), seems to be a secondary consideration to the bureaucratic paradigm of a judiciary that writes it off as sour grapes when anyone challenges or complains about their system.

Rule 7 E (1) governs judicial conduct states"

"Whenever misconduct or allegations of misconduct which if substantiated, would warrant discipline of an attorney admitted to practice before this court shall come to the attention of a judge of this court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by these rules, the Chief Judge if he or she deems it appropriate, shall refer the matter to the clerk, who shall refer to counsel for investigation and the prosecution of a formal disciplinary proceeding or the formulation of such other recommendations as may be appropriate".

Needless to say, the allegations and numerous demands for investigations fell on deaf ears.

Rule 6A tells how The Rules of the American Bar Association govern the conduct and members of the bar and 6B, how The Code of Judicial conduct of the American Bar Association governs the conduct of judges of the court. An investigation into this complaint will reveal that the District Court and then the Appeals court's failure to abide by these rules and laws after numerous attempts by pro se litigants are in direct conflict with The Code of Professional Responsibility and Judicial Conduct and they themselves have violated litigants civil rights.

The plaintiffs argued in the lower court that referrals, malpractice insurance rates and judicial favor were the motivation for the racketeers conspirators to assure that a colleague be found not guilty in a trial in state Superior court. This same conduct continued in the federal courts with the same motivations by court personnel and should be construed by the court as ongoing criminal activity by the alleged conspirators, racketeers.

The Judicial code of conduct adapted by the Supreme Court states that the "mere" appearance of impropriety is wrong. The lower courts erred by ignoring the many requests for an investigation of the allegations of racketeering, conspiracy, misconduct and fraud against the defendants.

That error intentional or unintentional as it me be, compounded with the courts allowing the defendant attorneys to proceed pro se on behalf of their corporate entity which is forbidden by federal statutes (28 USC 1654) and New Jersey Rule 1:21 clearly indicates the extent the judiciary will go to in order to protect their peers. The judiciary has failed to police itself, preserve the Constitution and protect the citizens of this country.

By ignoring these statutes certainly gives the appearance of improprieties by a belligerent part of our government that refuses to prosecute one of their own and constitutes ongoing criminal activity.

The plaintiffs in the district court argued that the defendant attorneys knew or should have known they were barred from appearances pro se on behalf of their corporate entity and their answers be struck and they be found in default. New Jersey law specifically emphasizes that professional corporations can not appear pro se.

In New Jersey, professional corporations are formed under the same rules as any other corporate entity. The Professional Corporations Act goes on to clarify the high standards of integrity required by a professional and the corporate entity they use. With guidelines for the high standards of professional conduct that should be upheld at all times.

In the case before the court, defendant attorneys and State Superior court judge were alleged to have violated numerous canons of the Code of Professional and Judicial Codes of Conduct, State statutes and rules of the court.

The lower courts erred in ignoring the complaint and the numerous requests by plaintiffs in the form of motions and letters to the court to investigate same. These omissions, compounded with complaints of the courts personnel whose conduct became suspect when they construed letters from defendants as motions to dismiss and turning a deaf ear to the plaintiffs motions making the court aware of the statutes and rules pertaining to professionals and corporate entities behavior in the courts

The district court, The Third Circuit court of Appeals and the New Jersey State Attorneys office representing defendant State Superior Court Judge Cleary all had obligations under the law and rules of the court to investigate the allegations of racketeering, conspiracy, misconduct and fraud against the defendants in this matter.

The District courts decision acknowledges that defendants Hellies, Wolff, Hellies & Duggan are the "only" corporation among the defendants. The district court erred by ignoring defendants Spizz's Sole Proprietorship corporate entity and Ver Strate and Deakin and Ver Strates' Partnership corporate entity.

The court, in acknowledging the defendants Hellies, Wolff, Hellies & Duggan as corporate entities and Ignoring the sole proprietorship of defendant Spizz and the partnership entity of defendant Ver Strate and Deakin and Ver Strate yet still denies the plaintiffs their relief against those defendants is unconscionable.

Without the State of New Jersey licensing these attorneys they couldn't practice anywhere. The lower court was compelled to abide by the laws of the state of New Jersey that govern the licensing of the defendant attorneys and the corporate entity they practice with.

The lower courts in ignoring plaintiffs citing of numerous federal case law that prohibits professional corporations from appearing pro se erred by not utilizing New Jersey law that licenses these professionals and emphatically forbids professional corporations to appear pro se.

All of the defendants in this matter have chosen not to file an answer to the brief. However, they filed their appearance form as the "attorney of record". These defendant attorneys fail to state to the court that they are the attorney of record for "their" corporate entity. In the case of defendant Ver Strate, who still asserts to representing herself, her partnership corporate entity she shares with defendant Deakins who is now deceased represents the estate without his estates knowledge or authorization to do so.

The New Jersey Attorney Generals office representing defendant State Superior Court Judge Cleary, filed as attorney of record by one attorney while another attorney from their office who never filed a paper in this or any other court sent a letter this court claiming this appeal to be frivolous.

This is a typical example of how intrusive and out of control our government has become. It seems incongruous to me how employees of the state just blindly defend their colleagues at tax payers expense while disregarding the individuals rights and failing to investigate the allegations as prescribed by law.

Those same bureaucrats who would think that an individuals constitutional rights being violated, their clients alleged participation in racketeering, conspiracy, misconduct and fraud along with the failure of the judiciary to prosecute one of their colleagues as frivolous, should be investigated themselves as to why they failed to protect the citizens of New Jersey from those who were alleged to have committed such heinous crimes against the individual, the U.S. Constitution, the New Jersey Constitution, State statutes and Rules of the court.

The New Jersey Attorney Generals office had an obligation to do investigate these allegations. This obligation to investigate their clients behavior is outlined by law, rules of the court and their own internal operations procedure.

The District court did not dismiss the case because it was frivolous. Moreover, the district court erred in dismissing the case against all the defendants except one. Without investigating the allegations as they were obligated to by law and rules of the court clearly shows the extent they would go through to assist a colleague.

How does one continue a case for racketeering, conspiracy, misconduct and fraud against one person when the case is dismissed against those others who allegedly knowingly, willingly, intentionally "acted in concert"?

The conduct of the Judiciary not only undermines the Constitutions of the United States and New Jersey, but disregards the very concept of everything they these members of the judiciary took an oath to uphold as officers of the court.

The conduct of our judicial system is creating many of the social woes that affect all the citizens of this country making these issues herein a major public concern

To be victimized by the very system one seeks justice in is certainly not what our forefathers had in mind for our judiciary.

Where does one go for justice if not the judiciary? What happened to equal protection and justice under the law? Has negative behavior become the standard of acceptance and the Constitution and our written laws have no meaning? Is civil unrest at hand?

The people have the power of the vote to discharge our elected governmental officials when dissatisfied with their performance but have no recourse in a judicial system where complaints are taken by their own bar association which is nothing more than a fellowship of lawyers who all belong to the same New Jersey Bar.

With complaints about a judge, the complaint goes to another judge of the same court who by virtue of doing nothing gets the complaint dismissed. As ridiculous as that sounds, there is in fact a law in place that states exactly that and is probably the reason why only four judges have been removed from the bench in the last twenty years.

CLOSEING STATEMENT

The Preamble to the Code of Professional Responsibility states:

> "The continued existence of a free and democratic society depends upon recognition of the concept that justice is based upon the rule of law grounded in respect for the dignity of the individual and his capacity through reason for enlightened self government. Law so grounded makes justice possible, for only through such law does the dignity of the individual attain respect and protection. Without it, individual rights become subject to unrestrained power, respect for law is destroyed and rational self government is impossible".

As complicated and bureaucratic as the judiciary might think they are, it still comes down to basics and the phenomenal good sense of the constitution. This is a government of the People, for the People and by the People, and there is no place in our system of democracy for a pompous judiciary functioning above the law and disregarding its responsibility to the people.

Statutes that govern the judiciary's conduct are already in place but are almost never enforced. Atrocities committed by members of the Judicial branch of our government go unpunished due to the judiciary's failure to police itself. A Judiciary with a pompous arrogance that serves no purpose other than a breeding ground for civil unrest.

The Judiciary's failure to uphold the Constitution of The United States, protect the individuals rights and police itself make the questions asked herein of great public importance. Namely, does the Constitution of the United States, The New Jersey Constitution, The Code of Judicial Conduct, The Code of Professional Conduct and All the laws and Rules of the court pertaining to the aforementioned mean anything when they are not enforced and colleagues are permitted to operate above the law under the guise of legalize and professionalism.

Thugs, whether they wear three piece suits or judicial robes are still thugs. A quote that might depict the Judiciary would be "Absolute power corrupts absolutely".

Our judicial system has evolved into an organization that surrounds itself with a wall of immunity that not only has the ability but utilizes that power to protect their colleagues and persecute the citizens of this great country.

I have attempted to illustrate in short, the web of deceit and bureaucratic wall of impunity the judiciary has built for themselves. I'm sure an investigation will produce volumes of similar conduct of Judges and lawyers, who, through their court rulings generate case law that has bypassed and circumvented not only the Constitutions of the United States and the State of New Jersey, but also legislation made by our elected officials to a point of which laws drafted by our elected legislators have no meaning anymore.

How many more lawyers and jail cells will we produce before the scales of justice balance? When does the judiciary finally wake up and see the light and act like the professionals they are supposed to be and admit their short comings and correct them.

In that the aforementioned reasons being of great public importance and having shown good cause, it is respectfully requested that this court grant a review of the issues of this Appeal.